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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/063,951	05/29/2002	Erik Coelingh	201-0700	2367

28415 7590 11/18/2003

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EXAMINER

HERNANDEZ, OLGA

ART UNIT	PAPER NUMBER
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3661

DATE MAILED: 11/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 11

Application Number: 10/063,951
Filing Date: May 29, 2002
Appellant(s): COELINGH ET AL.

Price, Heneveld, Cooper, DeWitt & Litton
For Appellant

MAILED
NOV 18 2003
GROUP 3600

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/02/03.

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(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1-20 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

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4828283	Ishii et al.	5-1989
5927421	Fukada	7-1999
6098007	Fritz	8-2000
5822709	Fujita	10-1998

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Sigl (5,794,735).

As per claims 1 and 11,

- providing driver subsystem and an active assist subsystem (abstract);
- receiving at least one driver input into the driver subsystem from a driver of the vehicle (figure 1);
- outputting a driver output from the driver subsystem to the active assist subsystem, the driver output being derived from the at least one driver input (figure 1);
- providing at least one active assist program having at least one active input, the at least one active assist program having an on setting wherein the at least one active assist program outputs at least one active input and an off setting wherein the at least one active assist program does not output at least one active input (column 2, lines 30-59)
- providing a vehicle control and implementation subsystem (abstract); and
- inputting an intended driving demand from the active assist program into the vehicle control implementation subsystem (column 2, lines 60-67);

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- wherein the intended driving demand is derived from a combination of the at least one driver input and the at least one active input if the at least one active assist program is in the on setting and if the driver of the vehicle does not overrule the at least one active assist program, otherwise the intended driving demand is derived from the at least one driver input, such that the vehicle control and implementation subsystem cannot determine its instructions come from the at least one driver input or the at least one active assist program (column 3, lines 4-54).

Claims 6, 7, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sigl (5,794,735) in view of Fritz (6,098,007).

As per claims 6 and 16, Sigl does not include the longitudinal acceleration. However, Fritz teaches it in the abstract. Therefore, it would have been obvious to one of ordinary skill in the art to combine the aforementioned references in order to control the motor vehicle.

As per claims 7 and 17, Sigl does not include the longitudinal velocity. However, Fritz teaches it in column 3, lines 62-66. Therefore, it would have been obvious to one of ordinary skill in the art to combine the aforementioned references in order to control the motor vehicle.

Claims 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sigl (5,794,735) in view of Ishii et al (4,828,283).

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As per claims 10 and 20, Sigl does not include the wheel angle. However, Ishii teaches it in column 2, lines 45-50. Therefore, it would have been obvious to one of ordinary skill in the art to combine the aforementioned references in order to control the motor vehicle.

Claims 8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sigl (5,794,735) in view of Fukada (5,927,421).

As per claims 8 and 18, Sigl does not include the wheel angle. However, Fukada teaches it in column 3, lines 48-51. Therefore, it would have been obvious to one of ordinary skill in the art to combine the aforementioned references in order to control the motor vehicle.

Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sigl (5,794,735) in view of Fujita (5,822,709).

As per claims 8 and 18, Sigl does not include the slip angle. However, Fujita teaches it in column 12, lines 55-58. Therefore, it would have been obvious to one of ordinary skill in the art to combine the aforementioned references in order to control the motor vehicle.

Claims 2-5, 12-15 are allowed.

(11) Response to Argument

For the above reasons, it is believed that the rejections should be sustained.

The applicant argues that Sigl does not disclose all of the features of the claimed invention. Moreover, the applicant argues that the prior action does not comply and/or interact

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as required by 37 C.F.R. 1.104©(2). The examiner disagrees. A merely allegation is not evidence enough (see ground of rejection). It is understood that the applicant is using a broad language and it has not been define his interpretation of "subsystem," which in the instance of the case it can be interpreted as a simple controller as taught by the prior art. Page 17, the applicant argues that Sig1 does not include the driver subsystem and active assist subsystem or a vehicle control and implementation subsystem communicating with each other as defined in claim 1. Again, the examiner disagrees. Figure 1 of the prior art discloses several controllers or subsystems in communication with each other. Continuing with page 17, the applicant states: "Sig1 does not discloses receiving at least one driver input from a driver subsystem." However, he identifies and recognizes that elements 10 or 24 are at least one driver input from a driver subsystem and so on. The applicant argues that the prior art does not discloses an intended driving demand that is derived from a combination of at least one driver input and at least one active input if at least one active assist program is in the on setting and if the driver of the vehicle doe not overrule the at least one active assist program. However, it is inherent that the controllers have their integrated language of 1 and 0; binary language that is translated in the rules of programming. So combining the inherency and what is disclosed in column 2; the prior art teaches the applicant's statement.

Regarding the 103 rejection, to establish a prima facie case of obviousness, three basic criteria must be met.


First, there must be some suggestion or motivation, either in the references themselves *or in the knowledge generally available to one of ordinary skill in the art, to modify the*


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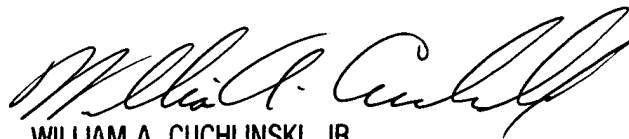
reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP § 2143 - § 2143.03 for decisions pertinent to each of these criteria.

Respectfully submitted,

Olga Hernandez
Examiner
Art Unit 3661


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November 13, 2003

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